

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF VIRGINIA
3 Richmond Division

3 In re:) Chapter 11
4)
4 CIRCUIT CITY STORES, INC., et al.,) No. 08-35653-KRH
5)
6 Debtors.) Jointly Administered

7 **APPELLANTS' STATEMENT OF ISSUES AND DESIGNATION OF RECORD ON**
8 **APPEAL**

9 ROBERT GENTRY, JOSEPH SKAF, JONATHAN CARD, and JACK HERNANDEZ
10 ("Appellants"), file this *Statement of Issues and Designation of Record on Appeal*, and states as
11 follows:

12 A. **Statement of Issues on Appeal**

13 Generally, the issues on appeal shall be whether and to what extent the
14 Bankruptcy Court erred in denying Appellants' Motion requesting application of Rule 7023 of
15 the Federal Rules of Bankruptcy Procedure to their class proofs of claim. Specifically,
16 Appellants challenge 1) the Court's finding that Appellants were not authorized to file class
17 proofs of claims because Appellants were not "authorized to act as agents for the unnamed
18 creditors;" 2) the Court's finding that Appellants' Motion was not timely because the motion had
19 to be brought "in the first instance, before the expiration of the Bar Date;" 3) the Court's finding
20 that class action litigation is not superior to the claims resolution process; and finally, 4) the
21 Court's finding that notice to the unnamed claimants was adequate to satisfy due process.
22

23 B. **Designation of Record on Appeal**

24 The following designation includes any and all exhibits and attachments filed with each
25 designated document:
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	Item No.	Docket No.	Description
1	1	N/A	Proofs of Claim filed on behalf of Jack Hernandez (Claim No. 6045 and 6049)
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3	2	N/A	Proof of Claim filed on behalf of Robert Gentry (Claim No. 6052 and 6039)
4			
5	3	N/A	Proofs of Claim filed on behalf of Joseph Skaf (Claim No. 8717, 13744 and 13724)
6			
7	4	N/A	Proofs of Claim filed on behalf of Jonathan Card (Claim No. 6040 and 6047)
8			
9	5	3703	Debtors' Nineteenth Omnibus Objection to Claims (Reclassification of Certain Misclassified Claims to General Unsecured, Non-Priority Claims)
10			
11	6	4027	Response to Nineteenth Omnibus Objection to Claims on behalf of Jack Hernandez
12			
13	7	4956	Response to Debtor's Nineteenth Omnibus Objection to Claims filed by Robert Gentry
14			
15	8	4449	Order On Debtors' Nineteenth Omnibus Objection To Claims
16			
17	9	4585	Omnibus Objection to Claim -- Debtors' Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims)
18			
19	10	4823	Response to Debtor's Thirty-First Omnibus Objection to Claims for Jonathan Card
20			
21	11	4943	Response to Debtor's Thirty-First Omnibus Objection to Claims on behalf of Jonathan Card.
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23	12	4946	Response to Debtor's Thirty-First Omnibus Objection to Claims on behalf of Joseph Skaf.
24			
25	13	5294	Order On Debtors' Thirty-First Omnibus Objection To Claims (Disallowance Of Certain Legal Claims)
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1	14	6641	Motion for Summary Judgment -- Debtors' Motion for and Memorandum in Support of Summary Judgment on Nineteenth Omnibus Objection to Claims as to Class of Robert Gentry
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3			
4	15	6642	<i>Debtors'</i> Supplement to the Debtors' Nineteenth Omnibus Objection to Claims as to Class Claim of Robert Gentry
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7	16	6643	Motion for Summary Judgment -- Debtors' Motion for and Memorandum of Law in Support of Summary Judgment on Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with respect to the class claim of Joseph Skaf
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11	17	6644	Motion for Summary Judgment -- Debtors' Motion for and Memorandum in Support of Summary Judgment on Nineteenth Omnibus Objection to Claims with Respect to the Class Claim of Jack Hernandez
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15	18	6645	Motion for Summary Judgment -- Debtors' Motion for and Memorandum of Law in Support of Summary Judgment on Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with Respect to the Class Claim Filed by Jonathan Card
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19	19	6646	Statement -- Debtors' Supplement to the Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with Respect to the Class Claim of Joseph Skaf
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23	20	6660	Statement -- Debtors' Supplement to the Thirty-First Omnibus Objection to Claims (Disallowance of Certain Legal Claims) with Respect to the Class Claim Filed by Jonathan Card
24			
25			
26	21	6661	Statement -- Debtors' Supplement to the Nineteenth Omnibus Objection to Claims (Reclassification of Certain Misclassified Claims to General Unsecured, Non-Priority
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28			

1			Claims) with Respect to the Class Claim
2			Filed by Jack Hernandez
3	22	6859	Omnibus Response to and Opposition of
4			Creditor's Card, Hernandez, Gentry and
5			Skaf to Debtor's Motion for Summary
6			Judgment and Creditor's Application for
7			Rule 56(f) Discovery
8	23	6931	Omnibus Reply Brief in Support of Motions
9			for Summary Judgment and Supplemental
10			Objections with Respect to Certain Claims
11			Subject to (i) the Debtors' Nineteenth
12			Omnibus Objection to Claims
13			(Reclassification of Certain Misclassified
14			Claims to General Unsecured, Non-Priority
15			Claims) and (ii) the Debtors' Thirty-First
16			Omnibus Objection to Claims
17			(Disallowance of Certain Legal Claims)
18	24	6995	Hearing held as to priority portion of
19			claims; MOTIONS GRANTED--Claims
20			disallowed as priority claims; ruling is
21			without prejudice as to Rule 7023 relief
22	25	7072	Order Granting Debtors' Motion For and
23			Memorandum Of Law in Support Of
24			Summary Judgment On Nineteenth
25			Omnibus Objection To Claims with respect
26			to the class of Robert Gentry
27	26	7074	Order On Debtors' Motion For and
28			Memorandum Of Law In Support Of
			Summary Judgment On Thirty-First
			Omnibus Objection To Claims for Joseph
			Skaf
	27	7075	Order Granting Debtors' Motion For
			Summary Judgment On Nineteenth
			Omnibus Objection To Claims for the Class
			of Jack Hernandez
	28	7076	Order Granting Debtors' Motion For and
			Memorandum Of Law In Support Of
			Summary Judgment On Thirty-First
			Omnibus Objection To Claims With

Respect To The Class Claim Of
Jonathan Card

29 7062 Notice and Motion to Approve Application
of Rule 7023 to the Class Proofs of Claims

30 7080 Amended Declaration of Michael Righetti
with Notice of Errata Regarding Creditors
Card, Gentry, Hernandez and Skaf's Motion
to Approve Application of Rule 7023 to
Class Proof of Claims

31 7166 Debtors Response to Creditors Gentry,
Hernandez, Card and Skaf's Omnibus
Motion Requesting an Order Applying
Bankruptcy Rule 7023 to Their Class Proofs
of Claim Pursuant To Bankruptcy Rule
9014(c)

32 7176 Reply to and In Support of Creditors'
Omnibus Motion to Approve 7023 Class
Proof of Claim

33 7221 Hearing held; MOTION DENIED. Motion
to Approve Application of Rule 7023 to the
Class Proofs of Claims of Creditors Card,
Gentry, Hernandez and Skaf filed by Robert
Gentry, Jack Hernandez, Joseph Skaf,
Jonathan Card

34 7664 Memorandum Opinion re: Motion for 7023

35 7665 Order Denying Motion to Approve

Dated: June 23, 2010

Respectfully submitted,

RIGHETTI LAW FIRM, P.C.

/s/ Michael Righetti

Attorneys for Creditors/Appellants